

1914

## c 262 Game and Fisheries Act

Ontario

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### Bibliographic Citation

*Game and Fisheries Act*, RSO 1914, c 262

### Repository Citation

Ontario (1914) "c 262 Game and Fisheries Act," *Ontario: Revised Statutes*: Vol. 1914: Iss. 2, Article 92.

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## 12. PROTECTION OF GAME, &c.

### CHAPTER 262.

An Act respecting the Game, Fur-bearing Animals and Fisheries of Ontario.

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

#### PART I.

##### INTERPRETATION AND GENERAL PROVISIONS.

Short title.

1. This Act may be cited as *The Ontario Game and Fisheries Act*. 3-4 Geo. V. c. 69, s. 1.

Application of Act.

2. This Act and the Regulations shall apply to all game hunting, shooting, fish, fisheries, fishing and all rights and matters relating thereto. 3-4 Geo. V. c. 69, s. 2.

Interpretation.

3. In this Act and in the Regulations:

"Angling."

(a) "Angling" shall mean the taking of fish with hook and line held in the hand, or with hook and line and rod, the latter held in the hand, but shall not include set lines;

"Bass."

(b) "Bass" shall mean and include the species ordinarily known and described as "large-mouthed bass" and "small-mouthed bass";

"Close season."

(c) "Close season" shall mean the period during which any species of game or fish is protected by this Act or the Regulations or by the laws and regulations of the Dominion of Canada;

"Fishery."

(d) "Fishery" shall mean and include the stretch of water, locality, premises, place or station described in the regulations, or in a lease or license, in or from which fish may be taken, and all nets, plant and appliances used in connection therewith;

"Game."

(e) "Game" shall mean and include all animals and birds protected by this Act or by the Regulations and the heads, skins and every part of such animals and birds;

- (f) "Lease" shall mean an instrument issued under the authority of this Act and of the Regulations conferring upon the lessee, for purposes of fishing, the rights therein mentioned, subject to the conditions, restrictions and limitations therein and in this Act and the Regulations contained;
- (g) "License" shall mean an instrument issued under the authority of this Act and of the Regulations conferring upon the licensee the right to do the things therein mentioned, subject to such conditions, restrictions and limitations as are therein and in this Act and the Regulations contained; but no license shall be deemed to be or to operate as a demise or lease;
- (h) "Minister" shall mean the member of the Executive Council for the time being charged with the administration of this Act;
- (i) "Northern District" shall mean that part of Ontario lying northerly and westerly of the lines of the Canadian Pacific Railway Company described as follows: Commencing where the main line of the railway from Montreal to Toronto enters Ontario, thence following the main line along the southerly extension thereof, now under construction, thence following the line of railway to the City of Guelph, and thence following the line of the Guelph and Goderich Railway Company to the Town of Goderich;
- (j) "Open season" shall mean the period during which any species of game or fish is permitted to be hunted, taken, killed, sold or possessed by this Act or the Regulations, or by the laws and regulations of the Dominion of Canada;
- (k) "Overseer" shall mean and include a game and fishery overseer and any officer or person authorized to assist in the enforcement of this Act and the Regulations;
- (l) "Regulations" shall mean the regulations made by the Lieutenant-Governor in Council under the authority of this Act;
- (m) "Southern District" shall mean that part of Ontario lying to the south of the Northern District;
- (n) "Superintendent" shall mean the chief officer in charge of the Game and Fisheries Branch of the Public Service. 3-4 Geo. V. c. 69, s. 3.

4.—(1) The Lieutenant-Governor in Council may make regulations:

Custody of  
archives and  
records.

(a) for making, keeping, searching for, obtaining and taking over all archives, records, books, regulations, orders in council, documents and accounts in the custody of the Government of the Dominion of Canada or of the Government of Ontario, or otherwise existing, in any way relating to the game or fisheries of Ontario;

Records,  
etc., and  
returns by  
licensees  
and others.

(b) providing that every person holding any lease or license issued under this Act, and all fish companies and fish dealers shall keep such records and make such reports and returns as may be prescribed;

Other provisions.

(c) containing such further and other provisions as may be deemed necessary or desirable for the administration and enforcement of this Act and of the Regulations.

Promulgation.

(2) The Regulations shall come into force upon publication thereof in the *Ontario Gazette*, or upon such later date as may be therein stated. 3-4 Geo. V. c. 69, s. 4.

Administra-  
tion.

5.—(1) The administration of this Act and of all matters relating to fish and game shall be under the control and direction of the Minister and shall constitute a branch of the Public Service to be known as the Game and Fisheries Branch.

Remuneration  
of officers,  
etc.

(2) The remuneration of all officers of the Game and Fisheries Branch and of all other persons employed to perform any duty in connection therewith, or to assist in the enforcement of this Act and of the Regulations, and all expenses incident to the due enforcement thereof, shall be paid out of such money as may be appropriated for that purpose by this Legislature. 3-4 Geo. V. c. 69, s. 5.

Exclusive  
right to fish  
in navigable  
waters only  
by express  
grant thereof.

6. The grant by patent, issued before or after the passing of this Act, of the bed of any navigable water or of any lake or river shall not, unless such exclusive right of fishing is expressly granted by such patent, be deemed to carry or include the exclusive right of fishing in the water which covers or flows over the land so granted. 3-4 Geo. V. c. 69, s. 6.

Payment of  
fees, fines,  
etc.

7. Save as otherwise provided by this Act all rentals, license fees, fines, penalties, proceeds of sales of articles confiscated, and other receipts, fees and revenue under this Act or the Regulations, or under any lease, license or other instrument thereby authorized, shall be payable to the Treasurer of Ontario. 3-4 Geo. V. c. 69, s. 7.



## PART II.

## GAME.

*Regulations.*

8. The Lieutenant-Governor in Council may make regulations

- (a) prohibiting for a period of not more than three years at a time the hunting, shooting and sale in Ontario or any part of it of any non-migratory game which may appear to require further protection than is afforded by this Act; Protection of non-migratory birds.
- (b) prohibiting the hunting, shooting or sale of any migratory game which he may deem to be at any time in danger of extinction, for the same period and in the same manner as the same is at any time forbidden in any two or more of the United States of America, one of such states being New York, Pennsylvania, or Michigan; Protection of migratory birds in certain cases.
- (c) varying the close season for that part of the territory of Ontario lying north and west of French River, Lake Nipissing and Mattawa River or any part of such territory; Varying close seasons in certain outlying districts.
- (d) prohibiting or regulating the possession of guns, rifles or other firearms in any part of Ontario in which it may appear that it is desirable to take special means to prevent violations of this Act; Forbidding the possession of guns.
- (e) prohibiting persons assisting hunters or hunting parties from acting as guides except under the authority of a license or permit; Licensing guides.
- (f) requiring non-resident holders of hunting licenses to employ licensed guides while hunting deer, moose or caribou; Employment of licensed guides.
- (g) designating certain parts of Ontario in which it shall be unlawful to hunt, take, pursue, kill, wound or destroy any game bird or animal at any time of the year, subject to such exception in favour of the residents or settlers as may be deemed reasonable; Crown game preserves.
- (h) for encouraging the propagation of game by authorizing any person owning game and having the same on his property to sell or dispose of it at any time for propagation or stocking purposes; Sale for breeding purposes.

Exempting  
Indians or  
farmers  
from pro-  
visions of  
Act.

- (i) exempting Indians or actual *bona fide* settlers in the northern and northwesterly or other sparsely settled portions of Ontario, whether organized or unorganized, from any of the provisions of this Act which may be specified in the Order in Council; but not so as to authorize a settler to hunt, take, kill or have in his possession any moose, reindeer or caribou except in any year when the same may be lawfully killed according to the provisions of this Act. 3-4 Geo. V. c. 69, s. 8.

Non-residents.

9. No person not a British subject and no person not residing and domiciled in Ontario shall hunt, take, kill, wound or destroy any game, or carry or use any gun or rifle for hunting purposes except under the authority of a license. 3-4 Geo. V. c. 69, s. 9.

### Open Season.

Open season.

- 10.—(1) No person shall hunt, take, kill or destroy

Deer.

- (a) any deer, except from the 1st day of November to the 15th day of November, both days inclusive;

Moose, rein-  
deer, and  
caribou  
south of  
C.P.R.

- (b) any moose, reindeer, or caribou in that part of Ontario lying south of the main line of the Canadian Pacific Railway in the Town of Mattawa to the City of Port Arthur, except from the 1st day of November to the 15th day of November, both days inclusive;

Moose, rein-  
deer and  
caribou  
north of  
C.P.R.

- (c) any moose, reindeer, or caribou throughout that part of Ontario lying north of the main line of the Canadian Pacific Railway from Mattawa to the Manitoba boundary and that part of Ontario lying south of the Canadian Pacific Railway from the City of Port Arthur to the Manitoba boundary, except from the 16th day of October to the 15th day of November, both days inclusive;

Grouse, etc.

- (d) any grouse, pheasants, prairie fowl or partridge, except from the 15th day of October to the 15th day of November, both days inclusive; but no persons shall take or kill more than ten partridges in any one day;

Woodcock.

- (e) any woodcock, except from the 1st day of October to the 15th day of November, both days inclusive;

Quail and  
wild turkeys,  
black and  
grey squirrels.

- (f) any quail or wild turkey, black or grey squirrel, except from the 15th day of November to the 1st

day of December in any year, both days inclusive;

(g) any swan or goose, except from the 15th day of September to the 15th day of April in the following year, both days inclusive; <sup>Swans and geese.</sup>

(h) duck of any kind or any other waterfowl, snipe, rail, plover or any other bird known as a shore bird or wader in the Northern District, except from the 1st day of September to the 15th day of December in any year, both days inclusive; <sup>Ducks and other waterfowl. Northern District.</sup>

(i) duck of any kind or any other waterfowl, snipe, rail, plover or any other bird known as a shore bird or wader in the Southern District, except from the 15th day of September to the 15th day of December in any year, both days inclusive; <sup>Idem. Southern District.</sup>

(j) capercailzie, before the 15th day of September, 1915, nor thereafter except from the 15th day of September to the 15th day of December, both days inclusive; <sup>Capercailzie.</sup>

(k) hares, except from the 1st day of October to the 15th day of December, both days inclusive, and except that between the 15th day of December and the 31st day of December in any year, both days inclusive, the wood-hare or cotton-tail rabbit may be taken, killed or destroyed by means of snares, ferrets or any other means than shooting. <sup>Hares.</sup>

(2) Notwithstanding anything in this Act a wood-hare or cotton-tail rabbit may be taken, killed or destroyed in any manner by the owner, occupant or lessee of any land upon which it causes actual damage to trees or shrubs, or by any member of the family of such owner, occupant or lessee, or by any person holding a written license or permit from such owner, occupant or lessee; and any of these animals killed under this subsection shall be handed over to the nearest officer of the Game and Fisheries Branch for distribution to charitable institutions. <sup>Cotton-tail rabbits.</sup>

(3) Notwithstanding anything in this Act a person who puts or breeds or imports deer upon his own land for the purpose of breeding and preserving the same, and his licensee, may hunt, take or kill any such deer from the 1st day of October to the 15th day of November, both days inclusive; but the onus of proof that the deer were so put or bred shall rest on the person hunting or killing the same. 3-4 Geo. V. c. 69, s. 10. <sup>Special provision as to shooting deer put or bred by any person on his lands.</sup>

#### *Beaver, Otter, Muskrats, etc.*

11.—(1) No beaver or otter shall be hunted, taken or killed or had in possession by any person before the 1st day <sup>Beaver and otter.</sup>



of November, 1915, and thereafter between the 1st day of April and the 1st day of November in any year, nor shall any trap, snare, gin or other contrivance be set for them during such periods.

**Muskrat.**

(2) No muskrat shall be hunted, taken or killed or had in possession of any person between the 1st day of May and the 1st day of December, except as provided by the next succeeding subsection, nor shall any trap, snare, gin or other contrivance be set for it during such period; and any such trap, snare, gin or other contrivance so set may be destroyed by any person without his thereby incurring any liability therefor; and this subsection shall apply to Indians in respect of private or leased land.

**In certain districts.**

(3) The close season with respect to muskrat in the electoral districts of Port Arthur, Fort William, Rainy River and Kenora shall be from the 1st day of May to the 1st day of March in the year following.

**Muskrat houses, etc.**

(4) No muskrat shall be shot during the month of April, or speared at any time; nor shall any muskrat house be cut, speared, broken or destroyed at any time.

**When destruction of muskrats lawful.**

(5) Nothing in this section shall apply to any person destroying any of the animals in defence or preservation of his property, or prevent the destruction of muskrats by any means, at any time, in the vicinity of dams or drainage embankments where there is a probability of injury being caused by them to such dams or drainage embankments.

**Onus of proof.**

(6) The onus of proving the justification under the next preceding subsection shall be on the person destroying any such animals.

**Mink.**

(7) No mink shall be hunted, taken or killed or had in possession of any person between the 1st day of May and the 1st day of November following.

**Beaver doing damage.**

(8) The Superintendent may at any time by order in writing direct the taking or killing of beaver by an overseer or other officer named in the order in any designated locality in Ontario in which, in the opinion of the Superintendent, beaver are causing damage to a highway or to private property, but all beaver so taken or killed shall be duly accounted for and handed over to the Superintendent.  
3-4 Geo. V. c. 69, s. 11.

*Sunday.***Hunting on Lord's Day.**

12. No person shall on the Lord's day hunt, take, kill or destroy any game, or use any gun or other engine for that purpose. 3-4 Geo. V. c. 69, s. 12.



*Deer.*

13.—(1) No person shall hunt, take, kill, wound or destroy any deer, moose, reindeer or caribou except under the authority of a license <sup>License necessary for hunting deer.</sup>

(2) No person shall at any time hunt, kill or take any cow moose, or any moose, reindeer or caribou under the age of one year. <sup>Cow moose, fawns, etc., which may be killed.</sup>

(3) No person shall during any one year or season kill or take more than one deer, one bull moose, or one bull reindeer or caribou; but this shall not apply to deer which are the private property of any person and which have been killed or taken by him or by his direction or with his consent in or upon his own land. <sup>Number of deer, etc., which may be killed.</sup>

(4) Two or more persons hunting together and holding licenses may kill an aggregate of not more than one deer for each member of the party. <sup>Aggregate kill.</sup>

(5) No owner of any dog, known by the owner to be accustomed to pursue deer, shall permit such dog to run at large during the close season for deer in any locality where deer are usually found. <sup>Restraint of dogs.</sup>

(6) Any person harbouring or claiming to be the owner of such hound or dog shall be deemed to be the owner thereof; and any dog found running deer during the close season shall be deemed to be at large with the permission of the owner and may be killed on sight by any person, and he shall not be liable to any penalty or damage therefor. <sup>Idem.</sup>  
3-4 Geo. V. c. 69, s. 13.

*Water Fowl.*

14.—(1) No wild duck, goose or other water fowl shall be hunted, taken or killed from a sail boat, yacht or launch propelled by steam or other power. <sup>Hunting ducks, etc., from sail-boats.</sup>

(2) No swivel gun, or gun of any kind of a larger bore or gauge than 8, and no contrivance for taking or killing wild swans, geese or ducks, known as sunken punts or batteries, shall be used at any time. <sup>Illegal contrivances.</sup>

(3) No blinds or decoys for use in hunting duck or other water fowl shall be placed at a greater distance than two hundred yards from the shore or a natural rush bed thick enough to conceal a boat, or from a water line bounding private property, and all decoys shall be removed from the water during the hours in which shooting is prohibited. <sup>Blinds or decoys.</sup>  
3-4 Geo. V. c. 69, s. 14.

*Poisons, Traps and Contrivances.*

15.—(1) No person shall kill or take any game by the use of poison, or a poisonous substance, or expose poison, <sup>Poisons, use of prohibited.</sup>

poisoned bait or other poisoned substance in any place or locality to which any game or any dog or cattle usually has access.

Trapping,  
snaring, etc.

(2) None of the game animals and game birds, except those mentioned in section 11, shall be trapped or taken by means of traps, nets snares, gins, baited lines or other similar contrivances, nor shall such traps, nets, snares, gins, baited lines or contrivances be set for them or any of them at any time; and if so set they may be destroyed by any person without incurring any liability for so doing. 3-4 Geo. V. c. 69, s. 15.

Shooting,  
at night.

16. No person shall discharge any gun or other fire-arm at any game between sunset and sunrise. 3-4 Geo. V. c. 69, s. 16.

### *Shooting for Hire Forbidden.*

Hired  
hunters.

17. No person shall for hire, gain or reward or hope thereof hunt, kill or shoot any game, or employ, hire or for valuable consideration induce any other person so to do; but this shall not apply to the *bona fide* employment of any person as guide to accompany a person lawfully hunting or shooting. 3-4 Geo. V. c. 69, s. 17.

### *Eggs.*

Eggs not to  
be taken.

18. No eggs of any game bird shall be taken, destroyed or had in possession by any person at any time. 3-4 Geo. V. c. 69, s. 18.

### *Masks and Disguises.*

Masked or  
armed persons  
in  
neighbourhood  
of preserves.

19. Any person being masked or disguised and carrying or having in his possession any gun or other fire-arm near any preserve or shooting ground or, in close season, near any place where game is usually found shall be guilty of an offence against this Act. 3-4 Geo. V. c. 69, s. 19.

### *Automatic Guns.*

Automatic  
guns  
prohibited.

20. Subject to the Regulations, no gun of the description known as "automatic" in which the recoil is utilized to reload the gun shall be used in the killing of game. 3-4 Geo. V. c. 69, s. 20.

Certain  
employees  
not to carry  
fire arms.

21.—(1) No person employed in connection with the construction of any railway or public work shall carry or have in possession in the vicinity of such railway or public work, any gun or other fire-arm except as may be authorized by special license.

Nature of  
license to  
do so.

(2) The special license may be subject to such terms as the Minister may direct, and the ordinary hunting license provided for in this Act shall not be deemed to be a license under this section. 3-4 Geo. V. c. 69, s. 21.

*Private Preserves—Propagation for Stocking Purposes.*

22.—(1) Where a person has put or bred any kind of game upon his own land for the purpose of breeding and preserving the same no person knowing it to be such game shall hunt, shoot, kill or destroy it without the consent in writing of the owner of the land. Protection of private preserves.

(2) This section shall not prevent any person from shooting, hunting, taking or killing upon his own land, or upon any land over which he has a right to shoot or hunt, any game which he does not know or has not reason to believe had been so put or bred by some other person upon his own land. 3-4 Geo. V. c. 69, s. 22. Innocent contravention.

*Trespass in Pursuit of Game.*

23.—(1) No person shall at any time enter with any sporting implements in his possession, or permit his dog to enter, into any growing or standing grain without the permission of the owner, and no person shall at any time hunt, shoot or with any sporting implement in his possession go upon any enclosed land of another after having had notice not to hunt or shoot thereon. Entry on grain crops. Entering on lands after notice not to do so.

(2) Every person who contravenes this section shall be guilty of an offence against this Act. Penalty.

(3) An owner or occupant of land may give such notice Notice to trespassers, how given.

(a) verbally or in writing;

(b) by maintaining on or near the boundary of the land intended to be protected, or upon or near the shores of any water covering the same or any part thereof, sign boards to the number of two to each forty acres, at least one foot square, containing a notice in the following form or to the like effect: "Hunting or shooting forbidden."

(4) Any person who, without authority, puts up or causes to be put up any such notice on any land of which he is not the owner, or to the possession of which he is not entitled, or who tears down, removes, injures, defaces or interferes with any notice lawfully put up shall be guilty of an offence against this Act. Unauthorized putting up or interfering with notices illegal.

(5) Nothing in this section shall limit or in any way affect the remedy at common law of any such owner or occupant for trespass. Common law rights preserved.

(6) For the purposes of this section land the boundary line or any part of the boundary line of which passes through a marsh or swamp, or any land covered with water, or land without sufficient trees or obstructions to prevent any post hereinafter mentioned being clearly visible from the Marsh lands.



nearest post on either side thereof, shall so far as respects that part of the boundary line which so passes be deemed to be wholly enclosed within the meaning of this Act if posts are maintained along such part at distances which will permit of each being clearly visible from the next post. 3-4 Geo. V. c. 69, s. 23.

### PART III.

#### FISH.

Government  
regulations.

**24.**—(1) The Lieutenant-Governor in Council may make regulations—

Forbidding  
fishing  
except under  
license.

(a) prohibiting fishing except under the authority of a license issued on the terms and conditions prescribed by the Regulations;

Wasteful and  
destructive  
fishing.

(b) preventing the destruction and improper, wasteful or excessive taking of fish;

Number and  
weight of  
fish.

(c) prescribing the number, size and weight of any species of fish that may be caught, possessed, purchased or sold;

Frogs.

(d) restricting the taking of frogs and setting apart any suitable Provincial waters for the cultivation and propagation of frogs.

Licenses for  
non-residents.

(2) Except under the authority of a license, no person not residing and domiciled in Ontario shall angle in Provincial waters. 3-4 Geo. V. c. 69, s. 24.

Sturgeon.

**25.** Except under the authority of a license, no sturgeon shall be caught, taken or killed by any means. 3-4 Geo. V. c. 69, s. 25.

Taking for  
breeding  
purposes,  
etc.

**26.** Except as authorized by special license, no fish or spawn shall be taken in any manner or at any time from Provincial waters for the purpose of stocking, artificial breeding or for scientific purposes. 3-4 Geo. V. c. 69, s. 26.

Regulations  
as to  
Nepigon  
waters.

**27.**—(1) Except under the authority of a license, no one shall fish in the waters of Lake Nepigon or the River Nepigon in the District of Thunder Bay or in any tributaries of such lake or river.

Indian and  
other guides.

(2) This section and the conditions applicable to licenses authorizing such fishing shall apply to Indians as well as to all other guides, boatmen, canoeemen, camp assistants or helpers of any kind of a fishing party or person holding any such license. 3-4 Geo. V. c. 69, s. 27.

Provisions  
as to setting  
apart of  
waters for  
propagation  
of fish.

**28.** The Superintendent may authorize to be set apart and to be leased any waters for the natural or artificial propagation of fish; and any person who wilfully destroys or injures any place so set apart or used, without the written

permission of an overseer or of the lessee, or uses therein a fishing light or other like implement for fishing, or fishes therein during the period for which the waters are so set apart shall be guilty of an offence against this Act. 3-4 Geo. V. c. 69, s. 28.

29.—(1) No person shall without the permission of the owner or lessee fish or employ or induce any other person to fish or assist in fishing in that portion of a pond, stream or other water in which fish are lawfully cultivated, owned and maintained by an owner or lessee, or remove or carry away or employ, induce or assist any other person to remove or carry away any fish therefrom. Fishing in private waters.

(2) Every person who contravenes the provisions of this section shall incur a penalty of not less than \$5 nor more than \$20, and \$1 for each fish taken; and any net, article, apparatus or appliance used contrary to the provisions of this section may be seized on view by any overseer or by the owner or lessee to be afterwards dealt with according to law. Penalty. 3-4 Geo. V. c. 69, s. 29.

30. Every net shall have the name of the owner legibly marked on two pieces of metal or wood attached to it; and the marks shall be preserved on such nets during the fishing season so as to be visible without taking up the net; and any net used without such marks shall be liable to confiscation. Nets to be marked with name of owners. 3-4 Geo. V. c. 69, s. 30.

31. Where a fishery is in the charge of any person other than the owner, either as occupant or servant, and any of the provisions of this Act are contravened by any such person or by any owner they shall be jointly and severally liable for all penalties incurred and all money recoverable in respect of this contravention. Joint liability of owner and agent. 3-4 Geo. V. c. 69, s. 31.

32. A lessee shall not have the right to sub-let, transfer or assign any right, interest or privilege granted or conferred upon him under the provisions of this Act without the written consent of the Superintendent. Transfer of lease. 3-4 Geo. V. c. 69, s. 32.

33. If, in consequence of incorrectness of survey or other error or from any other cause, a lease comprises land included in a lease of a prior date the lease last granted shall be void in so far as it interferes or purports to interfere with that previously granted, but the lessee shall have no claim for indemnity or compensation. Lessee not entitled to compensation in case of deficiency. 3-4 Geo. V. c. 69, s. 33.

34. Every lease shall be deemed to have been granted subject to the right of passage to and from any water in favour of the occupants, under title from the Crown, of the land in rear of those included in the lease whether so expressed therein or not. Rights of passage. 3-4 Geo. V. c. 69, s. 34.

Disputes,  
adjustment of.

**35.** Disputes between persons relative to fishing limits, or claims to fishery locations or stations or to the position and use of nets and other fishing apparatus, shall be settled by the local overseer subject to appeal to the Superintendent. 3-4 Geo. V. c. 69, s. 35.

Rights of  
lessee  
against  
trespassers.

**36.** A lease shall, as against trespassers, entitle the lessee to all the rights of an owner in fee simple of the land. 3-4 Geo. V. c. 69, s. 36.

Liability of  
trespassers.

**37.**—(1) Every person not authorized by law so to do who enters upon or passes over any fishery or any land described in a lease, without permission of the owner or lessee, shall be deemed a trespasser and shall be liable to all the penalties by law provided, and to pay all damages which the owner or lessee is entitled to recover, and shall in addition be guilty of an offence against this Act.

Rights of  
holders of  
timber  
license,  
navigation,  
etc.

(2) This section shall not apply to a person entering upon or passing over such land in discharge of any duty imposed by law, or, when the land is included in a timber license, to the holder thereof, who shall at all times have the right to cut and take away all trees, timber and lumber within the limits of his license; or prevent the owner or occupier of land bordering on any waters using a general right of passage to and from such waters, or prevent the public use of any waters or the banks thereof for the conveyance of timber or lumber or for the free navigation thereof by vessels, boats or other craft, or any user under license by the Crown of any such land or waters for any purpose or occupation not inconsistent with the provisions of this Act. 3-4 Geo. V. c. 69, s. 37.

Lease for  
net-fishing  
not to prevent  
angling.

**38.** The occupation of fishing grounds or waters leased for the express purpose of net fishing shall not interfere with nor prevent angling for other purposes than those of sale or traffic. 3-4 Geo. V. c. 69, s. 38.

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## PART IV.

## POSSESSION—SALE—TRANSPORTATION.

**39.** The Lieutenant-Governor in Council may make regulations.

- (a) prohibiting or regulating the purchase and sale of or traffic in, snipe, quail, woodcock, partridge, speckled trout, bass and maskinonge. Sale of certain game birds, fish.
- (b) authorizing and regulating the sale of game imported into Ontario and lawfully hunted, killed or procured according to the law of the province, state or country in which the same was killed or procured. Sale of imported game if lawfully procured.
- (c) prohibiting the possession, purchase, sale and transportation of any species of fish in the close season. Possession, etc., of fish in close season.

**40.—(1)** During the close season no person shall have in his possession or in the possession of his servant or agent, or of any other person on his behalf, any game, wherever killed or procured, or any fish, except that Possession of, game and fish in close season.

- (a) game lawfully killed or procured may be kept during the period between the end of the open season in any year and the sixteenth day of January in the following year;
- (b) skins of moose, deer, caribou and fur-bearing animals may be had in possession during the close season under the authority of a license issued not later than ten days after the end of the open season, and specifying the number and description of such skins.

**(2)** Except as expressly authorized by license no person other than the actual owner for the use of himself and family shall keep game in cold storage during the season in which the same may be so lawfully possessed. Cold storage in open season.

**(3)** This section shall not apply to game animals bred or *bona fide* procured for breeding purposes by persons *bona fide* engaged in the business of breeding game animals; and notwithstanding anything in this Act such persons may at all times have in their possession such animals or any part thereof. Exception when for breeding.

**41.—(1)** Except as expressly authorized by license, and as in this section expressly provided, no person shall, by himself, his servant, clerk or agent, buy, sell or expose or keep for sale, or directly or indirectly, on any pretence or device, for any valuable consideration, barter, give or obtain, to or from any other person, any game wherever killed or procured; but the person who has actually and lawfully hunted, taken and killed any game may sell the same, or any part Purchase and sale of game without license. Exceptions.

thereof, during the open season; and any person may buy from such person, or from the holder of a game dealer's license, any game which such person or licensee is at the time of sale authorized to sell under the provisions of this Act.

Supplying  
game at  
meals.

(2) Except as expressly authorized by license no hotel, restaurant or club shall during the close season supply for or as a part of any meal for which a charge is made any game, wherever killed or procured, or any fish contrary to the prohibition of any law or regulation.

Unlawful  
supplying  
under pre-  
tended  
name.

(3) It shall be an additional offence against this Act, punishable by a penalty of not less than the maximum penalty which would be otherwise applicable, unlawfully to supply at any hotel, restaurant or club for or as part of a meal any game or fish under any pretended name or under the designation of anything which might at the time be lawfully supplied.

Exception  
when for  
breeding.

(4) The Minister may grant to any person engaged *bona fide* in the business of breeding game animals a permit to buy and sell live game animals bred or procured *bona fide* for breeding purposes and to sell the skins of any such animals, and notwithstanding anything in this Act the holders of the permit may at any time buy or sell live game animals so bred or procured, and sell the skins of any such animal, and it shall be lawful to buy from him any such live game animal or skin. 3-4 Geo. V. c. 69, s. 41.

Inspection  
to be facilitated  
by lessees,  
licensees  
and others.

42. Every railway and express company and every other common carrier, every person engaged in the business of cold storage, or of purveying or dealing in game or fish, or of lumbering, or in charge of any camp near any fishery or near any place in which game is usually found, every person fishing or in charge of any fishery, and every person holding any lease or license shall, upon request, permit the Superintendent or any inspector, warden, overseer or other officer to enter and inspect any car, building, premises or enclosure, and to open any receptacle for the purpose of examining all game and fish taken and all implements and appliances for hunting and fishing and for the purpose of searching for game or fish illegally killed or procured, and to examine any book, invoice, or document containing any entry or memorandum relating to game or fish which the officer suspects to be illegally killed or possessed, and shall afford him all reasonable facilities for any such search, and in case of refusal the officer may, without a search warrant, break such locks and fastenings as may be necessary in order to make such examination. 3-4 Geo. V. c. 69, s. 42.

Transporting  
deer, moose,  
etc., without  
shipping  
coupons.

43.—(1) No railway or express company, or other common carrier, and no other person shall transport or receive or have in possession in Ontario any deer, moose, elk, reindeer or caribou, or any head, skin or other part thereof unless there is attached thereto one of the shipping coupons



belonging to a license authorizing the shipper to hunt or kill the same together with an affidavit of the shipper that the same was lawfully hunted or taken.

(2) No railway or express company, or other common carrier, and no other person shall transport or receive or have in possession for that purpose in Ontario any game during the close season or in the open season after the expiry of the shipping coupon attached thereto unless there is attached thereto, in addition to a shipping coupon, an affidavit of the shipper that the same was lawfully hunted and taken. Game in close season. Affidavit necessary.

(3) The preceding two subsections shall not prevent the transportation of game if accompanied by an affidavit that the same was lawfully killed in some other part of Canada. Game killed in other provinces.

(4) No railway or express company or other common carrier or other person shall ship or transport out of Ontario or shall receive or have in possession for the purpose of shipping or transporting out of Ontario any salmon trout, lake trout or white fish weighing less than two pounds undressed, taken or caught in Provincial waters. Minimum weight of fish to be transported.

(5) No railway or express company or other common carrier or other person shall receive or have in possession or shall ship or transport to any point or place any fish caught or killed within Ontario at a time or in a manner prohibited by law. 3-4 Geo. V. c. 69, s. 43. Transporting fish illegally caught.

44.—(1) All receptacles, including bags, boxes, baskets, crates, packages and parcels of every kind in which game or fish is packed for transportation, shall be so constructed as to show the contents thereof, or shall be marked with the description of the contents, or in either case shall be marked or labelled with the names and addresses of the consignee and consignor. Marking receptacles for fish or game.

(2) In case of failure to comply with the provisions of this section the owner, consignor or person actually shipping or claiming any such receptacle shall be guilty of an offence against this section. 3-4 Geo. V. c. 69, s. 44. Offence.

45.—(1) A non-resident entitled to hunt or shoot in Ontario by virtue of a license under this Act may export out of Ontario in any one open season game actually and lawfully killed by him as follows: one deer, one bull moose, reindeer or caribou, 100 ducks. Exporting deer, etc., by holders of non-resident licenses.

(2) The shipping coupon belonging to such license shall be attached to every such animal and to the receptacle containing it or any part of it or containing any ducks, and such person shall, if required by the Superintendent or by an inspector, warden or overseer, make a statutory declaration of the fact that such game was lawfully killed by him. Shipping coupon.

(3) Except as provided by this section no person shall at any time export from Ontario, or with intent to do so Exportation, generally, forbidden.



**Exceptions.** hunt, take or kill any game, except deer, moose, elk, reindeer or caribou which are not wild but are private property of and have been killed or taken by the owner or with his consent or by his direction in and upon his own land. 3-4 Geo. V. c. 69, s. 45.

## PART V.

### LICENSES.

- Regulations.** **46.** The Lieutenant-Governor in Council may make regulations
- Terms of license.** (a) governing the issue of licenses and permits, prescribing the terms and conditions thereof, the period for which the same shall be in force, and the fees payable in respect thereof;
- Special license to guest of resident.** (b) for granting without fee a special license to enable a guest of a resident of Ontario to hunt and shoot therein for a term not exceeding one week;
- Reduced fee to residents of other provinces.** (c) for reducing the fee for a non-resident hunting license to a resident of any other Province of Canada by providing that such license may be issued upon the same terms and conditions upon which a similar license is issued under the law of such other Province to a resident of Ontario. 3-4 Geo. V. c. 69, s. 46.
- Not to be issued to convicted persons or their employers.** **47.—(1)** No license shall be issued or permit granted to any person convicted of any offence against this Act within two years next preceding the date of application for such license or to any person employing a person so convicted.
- Illegal transfer.** (2) A license shall not be transferable, and every person who buys, sells, exchanges or in any way becomes a party to the transfer of any license or shipping coupon, or in any way uses or attempts to use a license or coupon issued to any other person shall be guilty of an offence against this Act.
- Cancellation.** (3) A license may be cancelled by the Superintendent, subject to appeal to the Minister, for a contravention by the licensee, or by any person with his connivance, of this Act or of the Regulations or of any of the terms and conditions of the license, notwithstanding that no prosecution has been instituted or conviction had in respect of such contravention.
- Effect of conviction as cancellation.** (4) A conviction for any offence against this Act shall operate as a cancellation of every license held by the person convicted.
- License discretionary.** (5) The issue of a license shall be in the discretion of the Superintendent subject to appeal to the Minister. 3-4 Geo. V. c. 69, s. 47.

48.—(1) A license may be issued to

Hunting  
licenses.

(a) a person not resident in Ontario to carry guns, rifles and fire-arms and to hunt and shoot, and the fee for such license shall not exceed \$50;

To non-  
residents.

(b) a resident of Ontario to hunt deer, and the fee for such license shall be \$2;

To residents,  
deer.

(c) a resident of Ontario to hunt moose, reindeer or caribou, and the fee for such license shall be \$5;

To residents  
for moose,  
reindeer or  
caribou.

(d) a person not resident in Ontario to hunt and trap fur-bearing animals, and the fee for such license shall be \$20.

To non-  
residents  
for fur-bearing  
animals.

47. (2) Every person who has obtained a license under this section shall at all times when hunting carry such license on his person, and shall at all reasonable times and as often as reasonably requested produce and show the same to the Superintendent or any inspector, warden or overseer or person acting under the authority of any of them who requests him so to do, and on failure or refusal shall forfeit such license, and if found hunting or taking any deer or other animals for hunting which a license is required shall, on proof of failure or refusal to comply with such request, be deemed to have been guilty of an offence against this Act.

Production  
of licenses  
on demand.

(3) There shall be attached to every license one or more shipping coupons plainly marked with the description of the game for hunting which the license is issued, and there shall be printed or stamped upon the coupon the date when it will expire which shall not be later than ten days after the last day of the open season for which the license is issued.

Coupons to  
be attached  
to license.

(4) Where any deer, moose, reindeer or caribou, or any part thereof, or any game for export under section 45 is presented for shipment at a railway station, steamboat landing or other point of shipment a coupon shall be detached from the license and signed by the person to whom the license is issued, in the presence of the shipping agent or clerk in charge of the office at such point of shipment, and attached to each deer or other animal, or part thereof, or to the receptacle in which it or any ducks are contained, and thereupon such shipping agent or clerk shall write across the face of the coupon the word "cancelled."

Detachment  
and  
cancellation  
of.

(5) Any person, shipping agent or clerk who contravenes any provision of this section, or uses a coupon after the expiry thereof, or ships or assists in the shipment of anything to which a coupon is required to be attached without complying with the provisions of this section shall be guilty of an offence against this Act. 3-4 Geo. V. c. 69, s. 48.

Contravention.

49. A license may be issued upon such terms and conditions as may be imposed by the Regulations authorizing

What  
licenses may  
be issued.

(a) any person engaged in the business of cold storage of perishable articles to keep any game during

Cold storage.

the open season, and during the period in the close season from the end of the open season in any year to the 16th day of January of the following year, and the fee for such license shall be \$25;

Game dealers.  
Sale in open  
season.

- (b) any person during the open season and during the period in the close season from the end of the open season in any year to the 1st day of January of the following year to buy and sell, and, within the limits of the municipality for which such license is issued, to expose for sale game lawfully killed and procured, and during such period and upon the conditions prescribed by the Regulations game imported into Ontario, specified and described in the Regulations, and lawfully hunted, killed or procured according to the law of the province, state or country in which the same were killed or procured, and the fee for such license shall be in cities having a population of not less than 100,000, \$25; in other cities having a population of not less than 50,000, \$10; in cities having a population of less than 50,000 and not less than 25,000, \$5; in cities having a population under 25,000 and in towns, \$2; and in villages and townships, \$1;

Rule as to  
imported  
game in  
close season.

Supply of  
game by  
hotels, etc.

- (c) a hotel, restaurant or club to supply for or as part of a meal served upon its premises any game lawfully obtained during the period in which the same may be lawfully kept in cold storage; and the fee for such license shall be in cities having a population of not less than 100,000, \$10; in other cities having a population of not less than 50,000, \$5; and in all other municipalities, \$1.  
3-4 Geo. V. c. 69, s. 49.

Conditions of  
licenses for  
the Nepigon  
waters.

50. Licenses may be issued authorizing fishing in the Nepigon River, Nepigon Lake and adjacent waters subject to the following in addition to any other conditions imposed by the Regulations:—

Number and  
terms of  
licenses.

- (a) One license only may be issued to any applicant and shall not be for a longer period than four weeks from the date of issue;

Fee for  
license.

- (b) The fee for such license for two weeks or less shall be \$15, for three weeks \$20, and for four weeks \$25, where the applicant is not a permanent resident of Canada; and \$5 for two weeks and \$10 for four weeks where the applicant is a permanent resident of Canada;

Not trans-  
ferable and  
to be produced  
upon request.

- (c) The license shall not be transferable and the holder shall produce and exhibit it whenever called



upon so to do by the Superintendent or an inspector, warden or overseer;

- (d) All fishing camps and fishing parties visiting such waters shall be subject to the supervision of the Superintendent or an inspector, warden or overseer who may direct what arrangement shall be made with regard to sanitary matters, the disposal of refuse and the extinction of fires. <sup>Subject to supervision.</sup>

- (e) A licensee, his servant or agent shall not cut live timber except where necessary for the purpose of camping and shelter, such as for tent poles, tent pins, and the like. 3-4 Geo. V. c. 69, s. 50. <sup>Cutting of live timber prohibited.</sup>

51. Licenses may be issued authorizing fishing in any waters subject to any terms, conditions or limitations, and for any district or fishery, and within any boundaries therein or in the Regulations set forth. 3-4 Geo. V. c. 69, s. 51. <sup>Fishing licenses.</sup>

52. Licenses or permits may be issued on such terms and conditions as may be prescribed by the Regulations giving authority to act as guides for hunting, shooting or fishing in any part of Ontario specified in any license or permit to such persons applying therefor as are certified by any inspector or warden to be fit and proper persons and qualified so to act; and the fee for any such license or permit shall not exceed \$2. 3-4 Geo. V. c. 69, s. 52. <sup>Guides.</sup>

53. The Minister may direct the refund of the fee paid for any license, or any part of such fee, where, owing to the license not having been used, or having been used for part only of the period for which it was issued, he deems it just so to do, and the Treasurer of Ontario, upon the written request of the Minister, shall cause a cheque to be issued for the amount of such refund. 3-4 Geo. V. c. 69, s. 53. <sup>Refunding fee.</sup>

## PART VI.

## ADMINISTRATION.

Government regulations.

**54.** The Lieutenant-Governor in Council may make regulations—

Administration.

(a) for the administration of the Game and Fisheries Branch;

Appointment of officers.

(b) for the appointment of the Superintendent, inspectors, wardens, overseers, officers, servants and other persons whose assistance he may deem requisite for the purposes of this Act, and for their remuneration;

Making certain overseers Justices of the Peace.

(c) conferring upon certain overseers by special appointment the powers of Justices of the Peace for the purposes of this Act and of the Regulations. 3-4 Geo. V. c. 69, s. 54.

Superintendent.

**55.** The administration of the Game and Fisheries Branch shall, under the Minister, be in charge of the chief officer thereof who shall be known as the Superintendent of Game and Fisheries. 3-4 Geo. V. c. 69, s. 55.

Inspectors of Game and Fisheries.

**56.** There shall also be appointed inspectors of game and fisheries, not exceeding three, who shall, in addition to such duties as may be imposed upon them by the Regulations, examine and report upon the enforcement of the Act in all parts of Ontario, the manner in which all wardens and overseers have during the year performed their duties, and shall also examine all applicants for the office of game and fishery overseer. 3-4 Geo. V. c. 69, s. 56.

Wardens of Game and Fisheries.

**57.** There shall also be appointed wardens of game and fisheries, not exceeding fourteen, who, subject to the Superintendent, shall have charge of and be responsible for the enforcement of this Act in the districts for which they shall respectively be appointed. 3-4 Geo. V. c. 69, s. 57.

Oath to be taken before acting.

**58.** The Superintendent, inspectors, wardens, overseers and deputy game and fisheries wardens shall before acting take and subscribe the following oath:—

1. *A. B., Superintendent (or as the case may be), appointed under the provisions of The Ontario Game and Fisheries Act, do swear that to the best of my judgment I will faithfully, honestly and impartially execute and perform the office and duty of such Superintendent (or as the case may be) according to the true intent and meaning of The Ontario Game and Fisheries Act and the regulations.*

So help me God.

3-4 Geo. V. c. 69, s. 58.

**59.** The Superintendent and inspectors and wardens of game and fisheries, overseers authorized by their appointment to act as Justices of the Peace, and the superintendent and inspectors of the Ontario Provincial Police shall be Justices of the Peace in and for every county or district for the purposes of this Act and of the Regulations, and may take informations and issue warrants or summonses in any county or district returnable in the county or district in which the offence is alleged to have been committed. 3-4 Geo. V. c. 69, s. 59.

**60.—(1)** Subject to the approval of the Minister the Superintendent may appoint the overseers and may in his discretion dismiss any of them.

(2) Overseers shall be paid by salary or by special remuneration for work performed, prosecutions conducted or convictions obtained under this Act, or partly by salary and partly by special remuneration, but shall not be entitled to receive directly any fines imposed for offences against this Act. 3-4 Geo. V. c. 69, s. 60.

**61.—(1)** Every overseer shall before acting obtain and deposit with the Superintendent a written certificate signed by an inspector or warden that he is a fit and proper person to be appointed to the office of overseer.

(2) An overseer shall have the authority of a constable for the purposes of this Act and the Regulations.

(3) Every overseer, not being himself a Justice of the Peace or authorized to act as such, on view of a violation of this Act shall arrest the person committing the same without process and bring him with reasonable diligence before a Justice of the Peace to be dealt with according to law.

(4) Every overseer, if he has reason to suspect and does suspect that game, peltries or fish have been killed, taken or shipped or are had in possession contrary to the provisions of this Act or the Regulations and are contained in any trunk, box, bag, parcel or receptacle, shall open the same entering all premises which under the provisions of this Act he is authorized to enter, and using necessary force in case the owner or person in charge obstructs or refuses to facilitate his search; and if such overseer has reason to believe and does believe that it is necessary to enter any store, private house, warehouse, car or building which he is not under the provisions of this Act authorized to enter without a search warrant he shall make a deposition, Form A, before a Justice of the Peace and demand a search warrant to search such store, private house, warehouse, car or building, and thereupon such Justices of the Peace may issue a search warrant, Form B.

(5) Every overseer shall forthwith seize all game and fish and all boats, guns, decoys, nets, lines, tackle, appliances,



materials and articles used or had in possession contrary to the provisions of this Act or the Regulations, and shall deal with them according to law; but articles the use of which is at all times unlawful shall forthwith be destroyed.

Duty to investigate and prosecute.

(6) Every overseer shall investigate all violations of this Act or of the Regulations brought to his notice and prosecute every person whom he may have reasonable cause to believe guilty of any offence against this Act.

Right of passage.

(7) In the discharge of his duties every overseer and every person by him accompanied, or authorized for that purpose, may enter upon and pass through or over private property without being liable for trespass.

Obstructing officers in the discharge of their duty.

(8) Any person who obstructs, hinders, delays or interferes with an overseer in the discharge of his duty by violence or by means of threats, or by giving false information or in any other manner shall be guilty of an offence against this Act.

Neglect to fulfil duties.

(9) Every overseer or other person authorized to enforce the provisions of this Act who neglects or refuses so to do or to perform any of the duties pertaining to his office shall be guilty of an offence against this Act.

Abuse of power.

(10) Any officer who maliciously abuses his power shall be guilty of an offence against this Act.

Overseers *ex-officio*.

(11) All the provisions of this section as to overseers shall apply to the Superintendent, inspectors and wardens so far as is consistent with their respective duties; and all sheriffs, deputy sheriffs, provincial police or constables, county constables, police officers, wood rangers, Crown lands agents, timber agents and fire wardens shall *ex officio* be overseers. 3-4 Geo. V. c. 69, s. 61.

Deputy game and fishery wardens—appointment, etc., of.

62.—(1) Subject to the approval of the Minister the Superintendent may appoint deputy game and fishery wardens in and for any part of Ontario, and may in his discretion dismiss them.

Remuneration.

(2) Deputy game and fishery wardens shall be appointed without salary, except when on special service, and shall receive one-half of all fines resulting from convictions obtained by them.

To have the authority of constables.

(3) Every deputy game and fishery warden shall have the authority of a constable for the purposes of this Act and the Regulations. 3-4 Geo. V. c. 69, s. 62.

## PART VII.

## PROCEDURE—EVIDENCE—PENALTIES.

63.—(1) Prosecutions for offences against or for the recovery of penalties imposed under the authority of this Act may be brought and heard before any person authorized by this Act to act as a Justice of the Peace or before any of His Majesty's Justices of the Peace for the county or district in which the penalty was incurred or the offence was committed, or if near any boundary between different counties or districts then in either, or in any case in the county or district in which the offender lives or is found, and in a city, town or village in which there is a police magistrate before him; but no person shall be compelled to attend at a greater distance from the place where he may have been found or arrested or from his place of residence or the place where the offence was committed than ten miles if there is a Justice of the Peace residing within that distance who is willing to dispose of the case and is not disqualified.

Persons  
before whom  
offences may  
be tried.

(2) The information or complaint shall be laid within six months after the commission of the offence except in the case of a prosecution for omissions to make any return required by this Act or the Regulations.

Limitation.

(3) A contravention of this Act or of the Regulations or the terms or conditions of a lease or license shall be and may be stated as an offence against this Act.

Offences.

(4) The description of an offence in the words either of this Act or of the Regulations or in any similar words shall be sufficient; and an information or complaint may be for two or more offences.

Description of  
offence.

(5) Any justice of the peace or other person authorized by this Act to act as a justice of the peace for the purposes thereof may upon his own view convict for any offence against this Act or the regulations.

Conviction  
on view.

(6) A violation of this Act or the Regulations shall constitute a separate offence in respect of each game animal, bird or fish which is the subject thereof, though more than one violation of the same or of a different kind and in respect of more than one game animal, bird or fish takes place at the same time or upon the same day.

Separate  
offences.

(7) Upon the trial of any prosecution under this Act the Justice shall, if it appears that more than one offence of the same kind was committed at the same time or on the same day, impose all the penalties in one conviction.

Offences of  
same kind  
on same  
day.

(8) The Justice shall by the conviction adjudge that the offender be imprisoned for any term not exceeding three months unless the penalty, the costs and charges of prosecution and commitment and of conveying the offender to prison are sooner paid.

Committal on  
non-payment  
of fine.

Defects of form.

(9) A conviction or order made in any matter arising under this Act, either originally or on appeal, shall not be quashed for want of form, and a conviction or order made by a court of summary jurisdiction against which a person is authorized to appeal shall not be removed by *certiorari* or otherwise either at the instance of the Crown or any private person into the Supreme Court.

Procedure. Rev. Stat. c. 90.

(10) In all prosecutions under this Act, save when herein otherwise provided, the procedure shall be governed by *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 69, s. 63.

Onus of proof.

64.—(1) In all actions and prosecutions under this Act the onus shall be upon any person found in possession of any game or fish in a close season to prove that such game was lawfully taken, killed and procured.

Finding nets to be evidence.

(2) The finding of any net, fishing device or other article set or maintained in violation of this Act shall be *prima facie* evidence of the guilt of the person owning, possessing or operating the same.

Possession, etc.

(3) In all actions and prosecutions under this Act the possession of a gun, decoy or other implement for shooting or hunting in or near any place where any game has been or is likely to be found shall be *prima facie* evidence that the person in possession thereof was hunting or shooting such game. 3-4 Geo. V. c. 69, s. 64.

Deer, etc.

65.—(1) Any person who commits any offence against this Act in respect of deer, moose, reindeer, caribou, beaver or otter shall for each offence incur a penalty of not less than \$20 nor more than \$100, and any person who commits any other offence against this Act shall for each offence incur a penalty of not less than \$5 nor more than \$50.

Other offences.

Second and third offences.

(2) Any person who after having been convicted of an offence against this Act within two years again offends against this Act shall incur a penalty of not less than double the minimum penalty provided for the offence, and upon a third or subsequent conviction at any time thereafter shall incur a penalty of not less than the maximum penalty provided for the offence.

Masked when offence committed.

(3) Any person convicted of any offence against this Act shall, if he is proved to have been masked or disguised and in possession of a gun or other fire-arm at the time such offence was committed, be liable to be imprisoned for a period not exceeding three months without the option of a fine in addition to the penalty elsewhere provided for such offence.

Remission or reduction of penalties.

(4) No Justice of the Peace shall have power to remit any penalty or to reduce the amount of the penalty in case of conviction for more than one offence upon the same prosecution: but in any case in which the aggregate penalties upon



conviction for more than one offence committed at the same time or included in the same conviction amount to more than \$500 the Minister may remit any part of the excess.

(5) All penalties imposed and collected in prosecutions under this Act in which overseers are prosecutors shall be paid to the Treasurer of Ontario. Application of fine.

(6) Subject to subsection 2 of section 62, one-half of every penalty imposed and collected under the provisions of this Act where any other person is the prosecutor shall be paid to him, or to the person on whose evidence the conviction is made, as the Justice may determine, and the other one-half shall be paid to the Treasurer of Ontario. One-half fine to go to private prosecutor.

(7) All guns, ammunition, boats, skiffs, canoes, punts and vessels of every description, decoys, nets, rods, lines, tackle and all appliances of every kind used for hunting or fishing, and all game and fish found in the possession of any person committing an offence against this Act or in respect of which any such offence was committed shall upon seizure be forfeited and, save as hereinafter provided, shall become the property of His Majesty and shall be forwarded to the Superintendent to be sold and the proceeds paid to the Treasurer of Ontario. Confiscation of game, etc.

(8) Articles of which the use is at all times unlawful shall be destroyed on seizure, and perishable game and fish may in the discretion of the overseer be immediately given to any charitable institution. Disposal.

(9) Upon seizure of any game or fish illegally killed or had in possession, or in respect of which any offence against this Act has been committed, all packages, boxes, crates, parcels or other articles containing the same, together with all other contents thereof of every kind, shall be forfeited and shall become the property of His Majesty, and shall be sold and the proceeds applied as provided in subsection 8. Confiscation of packages, etc.

65 (10) A person who commits an offence against this Act shall not have or acquire any right of property in game or fish caught or taken by him while committing such offence or in respect of which such offence was committed, but the same shall be forfeited and shall become the property of the owner, lessee or licensee, if any, in breach of whose rights the offence was committed, or if there is no such owner, lessee or licensee shall become the property of His Majesty. No right of property in game or fish illegally caught.

(11) The penalties in the next preceding four subsections provided as to forfeiture and loss of property shall take effect upon seizure if any offence has been in fact committed notwithstanding that no conviction is had against the person who commits such offence. Penalties to take effect on confiscation.

Conviction to  
cancel  
license.

(12) All leases, licenses or permits held by any person convicted of any offence against this Act shall be deemed to be cancelled upon conviction without further action or notice given by any officer of the Game and Fisheries Branch.  
3-4 Geo. V. c. 69, s. 65.

## SCHEDULE.

### FORM A.

Section 61 (4).

#### DEPOSITION FOR A SEARCH WARRANT.

I, declare that I have reason to suspect, and do suspect, that game, peltries or fish unlawfully killed or taken or had in possession (*as the case may be*) are at present held and concealed (*describe here the property, occupant, etc., and the place*).

Wherefore, I pray that a warrant may be granted and given to me to effect the necessary searches for (*describe here the property, etc., as above*).

Sworn before me at  
this day of

, A.D. 19 .

X. Y.

L. B.

J. P.

3-4 Geo. V. c. 69, Schedule, Form A.

### FORM B.

Section 61 (4).

#### SEARCH WARRANT.

To the constables of

Whereas has this day declared, under oath, before me, that he has reason to suspect and does suspect that game, peltries or fish unlawfully taken or had in possession (*as the case may be*) are at present held and concealed (*describe property, occupant, place, etc.*).

Therefore you and each of you are commanded by these presents, in the name of His Majesty, to assist the said , and diligently to help him to make the necessary searches for (*describe the game, peltries or fish unlawfully taken or had in possession, etc.*) which he has reason to suspect, and does suspect, to be held and concealed in (*describe the property, etc., as above*), and to deliver, if need there be, the said game, etc. (*as the case may be*) to the said to be by him brought before me, or before any other Justice of the Peace, to be dealt with according to law.

Given under my hand and seal at  
(or District) of , this day of

, in the County  
A.D. 19 .

L. B.

J. P.

[L.S.]

3-4 Geo. V. c. 69, Schedule, Form B.